

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

COACH, INC. and COACH SERVICES, INC.,

Plaintiffs,

v.

Case No. 10-14747

JUST ONE DOLLAR STORE PLUS, et al.,

Defendants.

ORDER INVITING PLAINTIFFS TO FILE A MOTION FOR SANCTIONS

Under the court's March 23, 2012 order granting Plaintiffs' motion to compel discovery, Defendants were directed to provide Plaintiffs: (1) complete responses to designated discovery requests; and (2) the attorney fees incurred in prosecuting the motion to compel, later determined by stipulation to total \$710.05. On April 5, 2012, Plaintiffs filed a notice reporting that, although Defendants had provided supplemental discovery responses before the court's deadline of 4:30 p.m. on March 29, 2012, those responses were unverified and still inadequate. Defendants responded at the court's direction on April 13, 2012, averring that, because they had identified their accountant as having possession of the information requested by Plaintiffs, they had fulfilled their discovery obligations.

Upon further review, the court finds that Defendants have not substantially complied with the March 23, 2012 order. The court explicitly required *Defendants* to provide the requested information to Plaintiffs or, to the extent they were unable to obtain it, to "clearly explain that efforts to procure it were unsuccessful." (Order Grant.

Pl.'s Mot. Compel 1, Dkt. # 49.) The court also warned Defendants that "[f]ailure to exercise diligence in order to adequately respond to the discovery requests may result in sanctions including, without limitation, preclusion at trial of undisclosed evidence, prohibiting opposition to claims, or prohibiting presentation of defenses." (*Id.* (citing Fed. R. Civ. P. 37(b)(2)(A).)

Moreover, on May 11, 2012, Plaintiffs filed a second notice indicating that Defendants have yet to pay the \$710.05 owed in attorneys fees, as the check remitted to Plaintiffs on the extended deadline of April 11, 2012, was returned for insufficient funds. Plaintiffs further note that Defendants have failed to file either a preliminary or a final witness list, noting this may be grounds for precluding Defendants from relying on the testimony of any unidentified witnesses. See Fed. R. Civ. P. 37(c)(1). Accordingly,

IT IS ORDERED that, on or before **June 8, 2012**, Plaintiffs may file a motion for sanctions under Federal Rule of Civil Procedure 37 based upon the events recounted in this order. In any such motion, Plaintiffs should specify the relief they request for Defendants' failure to obey the court's March 23, 2012 discovery order and to produce a witness list. In accordance with Local Rule 7.1(e)(2), Defendants must respond to any motion for sanctions within 14 days after service.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 24, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 24, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522